(48)

HIGH COURT OF JUDICATURE AT BILASPUR, CHHATTISGARH

SINGLE BENCH: HON'BLE SHRI S.R. NAYAK, CJ.

WRIT PETITION NO. 6334 OF 2005

PETITIONER		Manoj Readymade Stores Through : Proprietor Gopiram Agrawal Kundan lal Agrawal Aged about 60 years R/o – Kotraroad Sattigudi Chowk Raigarh
DEFENDANT		
	Vs.	
RESPONDENTS	1.	Vivek Agrawal S/o Parmanand Agrawal Aged about 28 years, R/o Subhash Chowk Raigarh, Distt.- Raigarh (C.G.)
PLAINTIFF	2.	Ashish Agrawal S/o Parmanand Agrawal Aged about 22 years R/o Subhash Chowk Raigarh Distt.- Raigarh (C.G.)
	3.	Parmanand Agrawal S/o Late Biharilal Agrawal Occupation- Business, R/o- Subhash Chowk Raigarh, Distt.- Raigarh (C.G.)

Present: Mrs. Hamida Siddique, learned counsel for the petitioner.

Mr. P. Diwaker, learned Sr. Advocate with Mr. Anoop Majumdar, learned counsel for the respondents.

ORAL ORDER

(Passed on 12th January, 2006)

The petitioner is the defendant. It is stated that after the defendant filed written statement, he came to know that the suit schedule property is declared to be Government Nazul land. In that view of the matter, the petitioner – defendant made an application under Order 6 Rule 17 C.P.C. to amend the written statement and that application has been rejected by the learned trial Judge. Hence, this petition under Article 227 of the Constitution of India.

(2) The plea sought to be raised in the written statement by way of amendment, it is trite, is a formidable defence that is available to the defendant. If the above assertion made by the petitioner is correct, it is

nobody's case that this plea was available to the petitioner -- defendant when he filed the written statement. In that view of the matter, it is just and proper to allow the application.

(3) In the result, the writ petition is allowed and the impugned order is set aside. The application filed by the petitioner -- defendant under Order 6 Rule 17 C.P.C. for amendment of written statement is allowed as prayed for. The trial Judge is directed to expedite the trial of the suit. No costs.

Sd/-
Chief Justice

Sd/-